

54-9-106 Funding -- Power sales contracts -- Revenue bonds -- Fee in lieu of ad valorem property taxes -- Bond issues -- Public purpose.

- (1) A public power entity participating in common facilities under this chapter may furnish money and provide property, both real and personal, and, in addition to any other authority now existing, may issue and sell, either at public or privately negotiated sale, general obligation bonds or revenue bonds, pledging either the revenues of its entire electric system or only its interest or share of the revenues derived from the common facilities in order to pay its respective share of the costs of the planning, financing, acquisition, construction, repair, and replacement of common facilities.
- (2)
 - (a) Capacity or output derived by a public power entity from its ownership share of common facilities not then required by the public power entity for its own use and for the use of its customers may be sold or exchanged for a consideration, for a period, and upon other terms and conditions as may be determined by the parties prior to the sale and as embodied in a power sales contract.
 - (b) Any revenues arising under a power sales contract under Subsection (2)(a) may be pledged by the public power entity to the payment of revenue bonds issued to pay its respective share of the costs of the common facilities.
 - (c)
 - (i) As used in this Subsection (2)(c), "nonexempt purchaser" means a purchaser that is not exempt from property taxes under Utah Constitution Article XIII, Section 2.
 - (ii)
 - (A) Each power sales contract between a public power entity and a nonexempt purchaser shall contain a provision requiring the nonexempt purchaser to pay an annual fee to the public power entity in lieu of ad valorem property taxes.
 - (B) The amount of the fee in lieu of ad valorem property taxes under Subsection (2)(c)(ii)(A) shall be based on the taxable value of the public power entity's percentage ownership of the common facilities used to produce the capacity or output that the public power entity sells to or exchanges with the nonexempt purchaser.
 - (iii) The public power entity shall pay over to the county treasurer each fee in lieu of ad valorem property taxes that it receives from a nonexempt purchaser for distribution in the same manner as other ad valorem tax revenues.
 - (iv) This Subsection (2)(c) does not apply to a public power entity to the extent that its interest in common facilities is subject to or exempt from the fee in lieu of ad valorem property taxes under Section 11-13-302.
- (3) A public power entity acquiring or owning an undivided interest in common facilities may contract with a county to pay, solely from the revenues derived from the interest of the public power entity in the common facilities, to the county or counties in which the common facilities are located, an annual fee in lieu of ad valorem property taxes based upon the taxable value of the percentage of the ownership share of the public power entity in the common facilities, which fee in lieu of ad valorem property taxes shall be paid over by the public power entity to the county treasurer of the county or counties in which the common facilities are located for distribution as per distribution of other ad valorem tax revenues.
- (4)
 - (a) Bonds issued by a city or town shall be issued under the applicable provisions of Title 11, Chapter 14, Local Government Bonding Act, authorizing the issuance of bonds for the acquisition and construction of electric public utility properties by cities or towns.

- (b) Bonds or other debt instruments issued by an interlocal entity shall be issued under Title 11, Chapter 13, Interlocal Cooperation Act, or other applicable law.
- (5) All money paid or property supplied by a public power entity for the purpose of carrying out powers conferred by this chapter is declared to be for a public purpose.

Amended by Chapter 342, 2011 General Session